



Summary of Initiative 1125

Prepared for members of the Washington House of Representatives by the House Office of Program Research.

This information has been prepared in response to various requests for a summary of Initiative 1125. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

BRIEF SUMMARY

- Prohibits state government and other agencies from (1) transferring revenues in the motor vehicle fund or any toll fund to the general fund or any other fund to be used for non-transportation purposes; and (2) transferring or using gas tax-funded or toll-funded lanes on state highways for non-highway purposes.
- Declares that the Legislature, rather than the Transportation Commission or other authority, is the tolling authority for toll facilities, and that only the Legislature may authorize tolls and set toll rates.
- Declares that toll revenues may be used only for highway purposes as defined by the 18th Amendment to the Washington State Constitution.
- Changes tolling policy guidelines to require consideration of the following: Toll rates must be set by the Legislature; toll revenue must only be used for purposes consistent with the 18th Amendment to the Washington Constitution; toll rates may not include variable pricing; and tolls on future toll facilities must end after the cost of the project is paid.
- Requires tolls imposed and collected on the I-90 floating bridge to be used exclusively for toll facilities and capital improvements to Interstate 90 and only for highway purposes consistent with the 18th Amendment to the Washington Constitution.

BACKGROUND

Initiative 1125 was certified to the ballot on July 25, 2011. The ballot title and ballot measure summary prepared by the Attorney General are as follows:

Ballot Title

Initiative Measure No. 1125 concerns state expenditures on transportation.

This measure would prohibit the use of motor vehicle fund revenue and vehicle toll revenue for non-transportation purposes, and require that road and bridge tolls be set by the legislature and be project-specific.

Should this measure be enacted into law? Yes [] No []

Ballot Measure Summary

This measure would prohibit motor vehicle fund revenue and vehicle toll revenue from being used for non-transportation purposes. It would prohibit non-highway use of state highway lanes funded by gas taxes or vehicle tolls. It would require the legislature to set tolls, and would provide that a toll on a particular road or bridge, including the Interstate 90 floating bridge, could be used only for construction, operation, or maintenance of that particular road or bridge.

Toll Authorization and Rate Setting

By law, only the Legislature may authorize the imposition of tolls on eligible toll facilities. Eligible toll facilities are defined as portions of the state highway system specifically identified by the Legislature. The Legislature has authorized the following toll facilities: the Tacoma Narrows Bridge, SR 167 High Occupancy Toll (HOT) lane pilot project, SR 520 Bridge, and the Interstate 405 express toll lanes.

Any proposal for the establishment of eligible toll facilities must consider specified policy guidelines which include: Overall direction (purpose for toll); when to use tolling; use of toll revenue; setting toll rates; and duration of toll collection.

The Washington State Transportation Commission, a seven-member body of citizens appointed by the Governor, is the tolling authority for the state. Once the Legislature has authorized the imposition of tolls on a particular facility, the Commission is empowered to set and adjust toll rates. For the Tacoma Narrows Bridge and the SR 167 HOT lanes pilot project, the Transportation Commission has specific authority to set and periodically review toll rates.

Over the years, the voters have enacted and re-enacted requirements for legislative approval of new or increased fees. Initiative 1053, which was approved by the voters in 2010, restates the statutory requirement that new or increased state fees require majority legislative approval in both houses of the Legislature.

In 2011, the Legislature enacted Substitute Senate Bill 5700 (Chapter 377, Laws of 2011), which approved the SR 520 toll rates set by the Transportation Commission and re-authorized the Transportation Commission, as the tolling authority for the state, to set and adjust toll rates on the State Route 520 corridor.

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Allowable Uses of Toll Revenues

According to state law and statutory policy guidance, toll revenue may be used only to construct, improve, preserve, maintain, manage, or operate an eligible toll facility. These purposes encompass necessary administration, toll enforcement by law enforcement, repayment of debt obligations, and provision of public transportation services.

In addition, specific conditions apply to the use of toll revenues from individual toll facilities.

- The permitted use of toll revenues from the State Route 520 corridor and Interstate 405 express lanes references the same broad uses as those described for future facilities. However, I-405 revenues are deposited in an account within the Motor Vehicle fund, which means that 18th amendment restrictions apply to it. The SR 520 Corridor Account is not designated as being within the Motor Vehicle Fund.
- Toll revenues from the Tacoma Narrows Bridge may be used to pay the debt obligations incurred in building the bridge and for annual operating and maintenance expenses. The Tacoma Narrows Bridge account is created in the Motor Vehicle Fund.
- Toll revenues from the SR 167 HOT lanes pilot project may be used for debt service, planning, administration, construction, maintenance, operation, repair, rebuilding, enforcement, expansion of high occupancy toll lanes, and to increase transit, vanpool and carpool and trip reduction services in the corridor. The SR 167 HOT Lane Account is not designated as being within the Motor Vehicle Fund.

Allowable Uses of Motor Vehicle Fund Revenue

Under the 18th Amendment to the Washington Constitution (Article 2, section 40) certain revenues may be used only for “highway purposes.” These revenues are:

- license fees for motor vehicles;
- excise taxes on motor vehicle fuel; and
- all other state revenue intended to be used for highway purposes.

In addition, these revenues are to be deposited into a special fund (the Motor Vehicle Fund) to be used exclusively for highway purposes.

The 18th Amendment defines highway purposes as the following:

- operating, engineering, legal expenses connected with the administration of public highways, county roads and city streets;
- construction, reconstruction, and maintenance of public highways, including acquisition of rights of way, policing of the public highways and operation of ferries which are a part of the road system;
- the payment of debt obligations for which the revenues have been legally pledged;

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- refunds authorized by law for taxes paid on motor vehicle fuels; and
- the cost of revenue collection.

In addition, under court opinions interpreting the 18th Amendment, financing of a public transportation system is not a highway purpose, but construction of park and ride facilities is a highway purpose, because such facilities are directly related to a more efficient and safer operation of the highway system.

The 18th Amendment does not explicitly include toll revenue in its list of revenues that are restricted to highway purposes. However, for the Tacoma Narrows Bridge and the Interstate 405 Express Lanes project, toll revenue is deposited to an account within the Motor Vehicle Fund, which has the effect of limiting those revenues to “highway purposes.”

Allowable Uses of State Highway Lanes

The Department of Transportation is authorized to sell surplus real property for fair market value when it determines that the property is no longer required for highway purposes. The Department of Transportation may also rent or lease lands, improvements, or air space that are held for highway purposes but are not presently needed.

Duration of Toll Collection

The Legislature must consider certain statutory policy guidelines when authorizing new toll facilities. These guidelines declare that tolls may remain in place after initial construction funding obligations have been met. Ongoing tolls may be used for additional capacity, capital rehabilitation, maintenance, management, and operations, and to optimize the performance of the system.

In the case of the Tacoma Narrows Bridge, state law specifies that the bridge will be operated as a toll-free facility after debt obligations are met. Duration of tolling is not expressly addressed in the law governing tolls for the other authorized toll facilities (SR 167 HOT lanes, SR 520 Bridge, Interstate 405 Express Lanes). However, the allowed uses for toll revenues on these facilities include expenses which extend beyond the life of debt obligations for the initial construction of the facility.

Variable Tolling

Under the policy guidelines that the Legislature must consider when authorizing new toll facilities, toll rates may include variable pricing.

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For the SR 167 HOT Lane project, tolls must be "dynamic," meaning that toll rates are adjusted automatically to manage entry into the lane. The Department of Transportation uses a computer algorithm to set the prices to encourage or discourage entry to ensure that average vehicle speeds remain above 45 miles per hour at least ninety percent of the time during peak hours.

For the State Route 520, tolls may vary in amount according to time of day, level of traffic congestion within the highway facility, or other criteria deemed appropriate by the Commission.

For the Interstate 405 express lanes, the Commission may set tolls which vary by time of day and level of traffic congestion within the highway facility. The Department of Transportation must automatically adjust the toll, using dynamic tolling, similar to tolls on the SR 167 HOT lane project.

SUMMARY

Toll Authorization and Rate Setting

Certain statutes are amended to declare that the Legislature, rather than the Transportation Commission, must set toll rates. (The Initiative does not amend other statutes addressing the Transportation Commission's toll-setting authority.)

The Legislature, rather than the Transportation Commission, is declared to be the tolling authority empowered to set toll rates. Toll rates are explicitly made subject to the I-1053 requirement that new fees and fee increases be approved by majority vote of each house of the legislature. Language is removed that explicitly authorizes the Legislature to delegate the imposition of tolls.

Allowable Uses of Toll Revenues

Certain statutes governing the allowable uses of tolling revenue are amended, as follows:

- The law governing the tolling of facilities is amended to limit the uses of tolling revenue to the cost of construction and capital improvements to the particular facility being tolled and to purposes which are consistent with the 18th Amendment to the Washington Constitution.
- For future tolled facilities and the SR 520 bridge and the I-405 Express Lanes, the definition of toll revenue is amended to add that these revenues may only be used for purposes consistent with the 18th Amendment to the Washington Constitution.
- For establishing new toll facilities, the policy guidance to be considered is amended to: (1) add the qualification that toll revenues must be spent consistent with the 18th Amendment to the Washington Constitution; and (2) state that tolls on a project must be spent on that project and may not be diverted.

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(The Initiative does not amend permitted toll revenue uses in the specific authorizations for the SR 167 HOT lane pilot project, the Tacoma Narrows Bridge, and the accounts created to support the SR 167 and SR 520 projects in the Multimodal Fund.)

A new restriction is added regarding any future toll revenue from the Interstate 90 floating bridge. Toll revenue from Interstate 90 must be used exclusively for toll facilities and capital improvements to Interstate 90. In addition, the Initiative specifies that such toll revenue may only be used for purposes consistent with the 18th Amendment to the Washington Constitution.

Allowable Uses of Motor Vehicle Fund Revenue

State government, the Department of Transportation, and other agencies are prohibited from transferring revenues in the Motor Vehicle Fund or any toll fund to the general fund or other funds and used for non-transportation purposes.

Allowable Uses of State Highway Lanes

State government, the Department of Transportation, and other agencies are prohibited from transferring or using lanes on state highways funded by the gas tax or tolls for non-highway purposes.

Duration of Toll Collection

The policy guidance to be considered in the establishment of new toll facilities is amended to state that tolls of future toll facilities must end after the cost of the project is paid.

Variable Tolling

The policy guidance to be considered in the establishment of new toll facilities is amended to prohibit toll rates from including variable pricing. (The Initiative does not amend specific statutory authority to set variable or dynamic tolls for the various toll facilities.)

Effective Date: December 8, 2011.

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